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Retirement

OLL 84-1357/3
17 September 1984

MEMORANDUM FOR: See Distribution

VIA: Chief, Liaison Division/OLL

FROM:
Liaison Division/OLL

STAT

SUBJECT: Civil Service Retirement Spouse Equity Act
of 1984 (HR 2300)

1. Attached for your information and analysis is the redrafted version of Spouse Equity Act of 1984. Also attached is a copy of Congresswoman Oakar's opening statement and a summary of the bill.

2. This information was released on 13 September during the mark up of the legislation by the Compensation and Employee Benefits Subcommittee, House Post Office and Civil Service Committee. The bill was voted out of Subcommittee with one dissenting vote.

3. A full Committee mark up is scheduled for 19 September and no changes are anticipated. The Committee Staff Director anticipates that while the Office of Personnel Management is not satisfied with all of the provisions, the bill with very few changes will pass Congress this year.

4. The mark up of S 2821, the Senate companion legislation, has not been rescheduled and negotiations with OPM continue.

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Attachments:
as Note



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OLL/LD:JBW:aw (17 September 1984)

OPENING STATEMENT OF CONGRESSWOMAN MARY ROSE OAKAR (D-OH)
CHAIR, SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

MARK-UP OF H.R. 2300

THURSDAY, SEPTEMBER 13, 1984

THE SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS WILL COME TO ORDER.

THIS AFTERNOON, THE SUBCOMMITTEE WILL BE CONSIDERING H.R. 2300, "THE CIVIL SERVICE SPOUSE RETIREMENT EQUITY ACT." AS YOU KNOW, H.R. 2300 WAS INTRODUCED BY CONGRESSWOMAN PATRICIA SCHROEDER, CHAIRWOMAN OF THE CIVIL SERVICE SUBCOMMITTEE, ON MARCH 23, 1983. SINCE THAT TIME, THIS SUBCOMMITTEE HAS CONDUCTED TWO HEARINGS ON THE PROBLEMS FORMER SPOUSES OF CIVIL SERVICE EMPLOYEES FACE IN GAINING PENSION BENEFITS AFTER DIVORCE.

TODAY, I WILL OFFER AN AMENDMENT TO H.R. 2300 IN THE NATURE OF A SUBSTITUTE. MY AMENDMENT WILL CORRECT SEVERAL INEQUITIES WITH CURRENT CIVIL SERVICE RETIREMENT LAW AS IT AFFECTS FORMER SPOUSES AND EXTEND GREATER PROTECTION TO DIVORCED SPOUSES WHEN ATTEMPTING TO RECEIVE SURVIVOR BENEFITS. BASICALLY, THE AMENDMENT WOULD:

1. PROVIDE THAT THE OFFICE OF PERSONNEL MANAGEMENT RECOGNIZE COURT ORDERS GRANTING SURVIVOR BENEFITS TO FORMER SPOUSES OF CIVIL SERVICE EMPLOYEES,
2. PROVIDE RETROACTIVE SURVIVOR BENEFIT PAYMENTS TO CERTAIN FORMER SPOUSES OF FEDERAL EMPLOYEES,
3. PROVIDE FOR A JOINT WAIVER AT THE TIME OF RETIREMENT OF SURVIVOR BENEFITS,

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4. PROVIDE FEDERAL EMPLOYEES HEALTH BENEFITS COVERAGE TO CERTAIN FORMER SPOUSES OF FEDERAL EMPLOYEES,

5. PROVIDE FOR THE ELECTION OF SURVIVOR BENEFITS BY MANY RETIRED FEDERAL WORKERS WHO HAVE BEEN DENIED THIS OPTION UNDER CURRENT LAW, AND

6. PROVIDE FOR NOTICE TO CURRENT SPOUSES AND FORMER SPOUSES ENTITLED TO SURVIVOR BENEFITS OR A PORTION OF AN ANNUITY OF THE LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS.

EQUALLY IMPORTANT, MY AMENDMENT DOES NOT INTERFERE WITH ANY ARRANGEMENTS BETWEEN FEDERAL WORKERS AND RETIREES AND THEIR CURRENT SPOUSES CONCERNING SURVIVOR BENEFITS OR ANNUITIES. WE HAVE TAKEN GREAT CARE TO MAINTAIN THE RIGHTS OF EMPLOYEES, RETIREES, AND THEIR CURRENT SPOUSES, AS WELL AS PROVIDING NECESSARY PROTECTIONS TO FORMER SPOUSES.

I WOULD LIKE TO COMMEND THE ADMINISTRATION AND THE MINORITY STAFF OF THIS COMMITTEE FOR WORKING COOPERATIVELY WITH THE MAJORITY STAFF IN DEVELOPING THIS AMENDMENT. I ALSO APPRECIATE THE TIME AND HARD WORK THE EMPLOYEES AND RETIREE ORGANIZATIONS AND PENSION ADVOCACY GROUPS PUT INTO THE DRAFTING OF THIS AMENDMENT.

I BELIEVE THE FINAL PRODUCT WHICH IS BEFORE US TODAY ACHIEVES OUR OVERALL GOAL OF PROTECTING FORMER SPOUSES AND IMPROVING THE CIVIL SERVICE RETIREMENT PROGRAM. IT ALSO CREATES PARITY IN THE TREATMENT OF FORMER SPOUSES BETWEEN THE CIVIL SERVICE RETIREMENT SYSTEM AND PRIVATE PENSIONS AS REQUIRED BY THE PENSION EQUITY ACT ENACTED BY CONGRESS LAST MONTH.

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IN SOME AREAS I WOULD HAVE LIKED TO HAVE GONE BEYOND WHAT THE LEGISLATION PRESCRIBES. HOWEVER, GIVEN THE TIME CONSTRAINTS WE ARE FACED WITH BEFORE ADJOURNMENT, I BELIEVE THAT THE AMENDMENT WE ARE CONSIDERING TODAY IS A REASONABLE SOLUTION TO MANY OF THE PROBLEMS IN THE CURRENT PROGRAM.

I HOPE THE SUBCOMMITTEE WILL ACT EXPEDITIOUSLY AND APPROVE THIS AMENDMENT WITHOUT CONTROVERSY.

BILL SUMMARY
"CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984"

An Amendment in the Nature of a Substitute to H.R. 2300
to be Offered by Congresswoman Mary Rose Oakar

The purpose of the amendment is to provide that the Office of Personnel Management recognize court orders granting survivor benefits to former spouses of civil service employees; to provide retroactive survivor benefit payments to certain former spouses of Federal employees; to provide for a joint waiver at the time of retirement of survivor benefits; and to provide Federal Employees Health Benefits coverage to certain former spouses of Federal employees.

**PROSPECTIVE SURVIVOR BENEFIT COVERAGE TO FORMER SPOUSES OF
FEDERAL EMPLOYEES**

Beginning 180 days after enactment of this bill, all Federal employees who are married upon retirement will receive a reduced annuity in order to provide a survivor benefit to a spouse. The survivor benefit coverage can be waived if both spouses sign a written request to be filed with the Office of Personnel Management at the time of retirement. Under certain circumstances, OPM is authorized to permit an exemption from the joint waiver requirement.

The Office of Personnel Management will, in the case of divorce, recognize survivor benefits for former spouses as prescribed in a court order, agreement, or decree. The court order awarding survivor benefits cannot be modified after retirement. The OPM will also recognize a voluntary assignment of survivor benefits to a former spouse unless there is a conflicting court order.

In certain instances, where a Federal employee did not make an election for a survivor benefit at the time of retirement, OPM will recognize the election of survivor benefits within two years after the date of marriage of the retiree and a new spouse. Specifically, this section applies to a retiree who waived a survivor benefit and has remarried, wishing to provide a survivor benefit to the current spouse; a retiree who was unmarried at retirement, marries and wants to provide a survivor benefit; and a retiree whose first marriage was dissolved and wishes to provide a survivor benefit to the former spouse. An employee can also elect to provide survivor benefits for a former spouse and a current spouse as long as reductions are made for both. (OPM currently recognizes survivor elections to the retiree who remarries subsequent to the death of a previous spouse if the Office is notified within 1 year of the remarriage and the retiree had previously elected survivor benefits for the deceased

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spouse.) It is important to note that OPM will not recognize a second election for an employee or retiree who remarries the same spouse.

During the two year extended period, a retiree must notify OPM of the election of survivor benefits and make a redeposit of the difference between the full annuity and the reduced annuity. Redeposits will cover the entire period beginning at retirement. OPM will be given authority to withhold annuity payments if redeposits are not made, once the election of survivor benefits has occurred.

The OPM will recognize that an election is invalid if a previous court order to a former spouse prescribes a conflicting award of survivor benefits; however, an employee may apportion the survivor benefit between a current spouse and a former spouse. OPM will not honor survivor awards which exceed 55 percent of the retiree's annuity. A reduced annuity will discontinue if a spouse dies or, if upon divorce, no award is made. A reduction also stops if a former spouse remarries before reaching age 55.

In order to qualify for a survivor benefit, all spouses or former spouses must be married to the Federal employee or retiree for at least 9 months and the Federal worker must have served no less than 18 months in civilian service.

Survivor benefits will be paid to a former spouse 2 months after the death of the retiree or after OPM receives notice of a court decree. OPM must recognize court agreements, orders, and decrees from any state, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, or any Indian Tribe in the United States.

An employee can apply for a lump sum withdrawal of pension contributions when leaving service prior to retirement. The employee would have to provide written notification to a current or former spouse of his or her intention to withdraw the pension contributions. That notification must be filed with OPM prior to withdrawal.

RETROACTIVE BENEFITS TO SPOUSES

The amendment provides for the retroactive award of survivor benefits to former spouses if one of the following circumstances occurs. One, an employee or retiree will be able to voluntarily elect to receive a reduced annuity to provide a survivor benefit to a former spouse within 18 months after enactment of the legislation. The OPM shall determine the amount of a reduction

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to reflect the amount the annuity would have been reduced had the election been made at retirement and the retiree must deposit this amount with OPM.

If an employee or retiree is deceased as of the 180th day after enactment or if the employee or retiree did not make a voluntary election, then a former spouse can receive survivor benefits if he or she fulfills certain criteria:

- a.) the marriage was dissolved after September 15, 1978;
- b.) the marriage had lasted at least 10 years during periods of creditable Federal service;
- c.) the former spouse is not entitled to another public or private pension (Social Security is excluded);
- d.) the former spouse must not be remarried before age 55, between September 15, 1978 and the application date;
- e.) the former spouse must be at least 50 years old at the application date; and
- f.) the former spouse must file an application with OPM within 30 months of the date of enactment.

Payments will begin one day after the Federal employee's death, but no sooner than 2 months after the application is received by OPM. All payments will equal 55 percent of the retiree's annuity as adjusted by cost-of-living increases.

The amendment also recognizes, under certain circumstances, the retroactive election of survivor benefits for Federal retirees who did not choose a survivor reduction prior to enactment of this legislation. The Office will allow retirees who were married at the time of retirement and waived a survivor election, but whose spouse died and the retiree remarried, to elect within 1 year of the effective date to provide a survivor annuity for a current spouse. The Office will also allow retirees who remarried after retirement and notified OPM of a survivor election, but were denied because their application was untimely, to reapply to OPM. A retiree in this instance must provide OPM with evidence proving the retiree's election was not recognized because of untimely filing.

Redeposits and withholdings of late payments will apply in these instances the same as in other provisions of the bill.

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FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM COVERAGE

The amendment would provide former spouses with the opportunity to participate in the Federal Employees Health Benefits Program by paying the full premium costs if the person is married to a Federal employee at least 180 days after enactment, if he or she has not remarried, if the Federal employee or retiree was enrolled in a health plan prior to the divorce or separation, and if the former spouse is eligible for survivor benefits.

The former spouse can enroll in a plan within 60 days after the dissolution of the marriage. Health coverage can be for "self only" or "family" categories. Children who are the Federal employee's natural or adoptive offsprings can be covered by the former spouse's health insurance.

Health insurance coverage under the FEHBP will also be made available to former spouses who are eligible for retroactive survivor benefits.

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Amendment in the Nature of a Substitute
Offered by Ms. Oakar

1 That this Act may be cited as the "Civil Service Retirement
2 Spouse Equity Act of 1984".

3 Sec. 2. Chapter 83 of title 5, United States Code, is
4 amended--

5 (1) by amending section 8334(h) to read as follows:

6 "(h) For the purpose of survivor annuities, deposits
7 authorized by subsections (c), (d), and (j) of this section
8 and by section 8339(j)(5)(C) and the last sentence of section
9 8339(k)(2) of this title may also be made by the surviving
10 spouse or former spouse, as applicable, of an employee or
11 Member.";

12 (2) in section 8339--

13 (A) by amending subsection (j) to read as
14 follows:

15 "(j)(1) The annuity computed under subsections (a)-(1)
16 and (1) of this section (or a portion of the annuity, if
17 jointly designated for this purpose by the employee or Member
18 and the spouse of the employee or Member under procedures
19 prescribed by the Office of Personnel Management) for an
20 employee or Member who is married at the time of retiring
21 under this subchapter is reduced as provided in paragraph (4)
22 of this subsection in order to provide a survivor annuity for

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1 the spouse under section 8341(b) of this title, unless the
2 employee or Member and the spouse jointly waive the spouse's
3 right to a survivor annuity in a written election filed with
4 the Office at the time that the employee or Member retires.
5 Each such election must be made in accordance with such
6 requirements as the Office shall, by regulation, prescribe,
7 and shall be irrevocable. The Office shall provide, by
8 regulation, that an employee or Member may waive the survivor
9 annuity without the spouse's consent if the employee or
10 Member establishes to the satisfaction of the Office--

11 “(A) that the spouse's whereabouts cannot be
12 determined, or

13 “(B) that, due to exceptional circumstances,
14 requiring the employee or Member to seek the spouse's
15 consent would otherwise be inappropriate.

16 “(2) If an employee or Member has a former spouse who is
17 entitled to a survivor annuity as provided in section 8341(h)
18 of this title, the annuity of the employee or Member computed
19 under subsections (a)-(i) and (n) of this section (or any
20 designated portion of the annuity, in the event that the
21 former spouse is entitled to less than 55 percent of the
22 employee's or Member's annuity) is reduced as provided in
23 paragraph (4) of this subsection.

24 “(3) An employee or Member who has a former spouse may
25 elect, under procedures prescribed by the Office, to have the

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1 annuity computed under subsections (a)-(1) and (n) of this
2 section or a portion thereof reduced as provided in paragraph
3 (4) of this subsection in order to provide a survivor annuity
4 for such former spouse under section 8341(b) of this title.
5 An election under this paragraph shall be made at the time of
6 retirement or, if later, within 2 years after the date on
7 which the marriage of the former spouse to the employee or
8 Member is dissolved, subject to a deposit in the Fund by the
9 retired employee or Member, within such 2-year period, of an
10 amount determined by the Office, as nearly as may be
11 administratively feasible, to reflect the amount by which the
12 annuity of such employee or Member would have been reduced if
13 the election had been continuously in effect since the date
14 the annuity commenced. If the employee or Member does not
15 make such a deposit, the Office shall collect the amount of
16 the deposit by offset against the employee or Member's
17 annuity, up to a maximum of 25 percent of the net annuity
18 otherwise payable to the employee or Member, and the employee
19 or Member is deemed to consent to such offset. An election
20 under this paragraph--

21 “(A) shall be invalid to the extent that it--

22 “(1) conflicts with any court order under
23 section 8341(h) of this title issued before the date
24 of such election; or

25 “(11) causes the total of survivor annuities

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1 payable under subsections (b), (d), (f), and (h) of
2 section 8341 of this title based on the service of
3 the employee or Member to exceed 55 percent of the
4 annuity to which the employee or Member is entitled
5 under subsections (a)-(i) and (n) of this section;
6 and

7 "(B) shall be invalid, in the case of an employee or
8 Member who is then married, unless it is made with the
9 spouse's written consent.

10 The office shall provide by regulation that subparagraph (B)
11 of this paragraph may be waived for either of the reasons
12 described in the last sentence of paragraph (1) of this
13 subsection.

14 "(4) In order to provide a survivor annuity or
15 combination of survivor annuities under subsections (b), (d),
16 (f), and (h) of section 8341 of this title, the annuity of an
17 employee or Member (or any designated portion or portions
18 thereof) is reduced by 2 1/2 percent of the first \$3,600
19 thereof plus 10 percent of so much thereof as exceeds \$3,600.

20 "(5)(A) Any reduction in an annuity for the purpose of
21 providing a survivor annuity for the current spouse of a
22 retired employee or Member shall be eliminated for each full
23 month after the death of the spouse or after the dissolution
24 of the spouse's marriage to the employee or Member, unless
25 the spouse is entitled, as a former spouse, to a survivor

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1 annuity as provided in section 8341(h) of this title.

2 “(B) Any reduction in an annuity for the purpose of
3 providing a survivor annuity for a former spouse of a retired
4 employee or Member shall be eliminated for each full month
5 after the former spouse remarries before reaching age 55 or
6 dies, unless the employee or Member elects, within 2 years
7 after the former spouse's death or remarriage, to continue
8 the reduction in order to provide a survivor annuity or
9 increase the survivor annuity for the current spouse of the
10 retired employee or Member.

11 “(C) Upon remarriage, a retired employee or Member
12 (including an employee or Member whose annuity was not
13 reduced to provide a survivor annuity for the employee or
14 Member's spouse or former spouse at the time of retirement)
15 may irrevocably elect during such marriage, in a signed
16 writing received by the Office within 2 years after such
17 remarriage or, if later, within 2 years after the death or
18 remarriage of the former spouse, a reduction in the employee
19 or Member's annuity under paragraph (4) of this subsection
20 for the purpose of providing an annuity for such employee or
21 Member's spouse in the event such spouse survives the
22 employee or Member. Such election and reduction shall be
23 effective the first day of the second month after the
24 election is received by the Office, but not less than 9
25 months after the date of the remarriage, and the retired

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1 employee or Member shall, within 2 years after the date of
2 the remarriage, deposit in the Fund an amount determined by
3 the Officer of Personnel Management, as nearly as may be
4 administratively feasible, to reflect the amount by which the
5 annuity of such retired employee or Member would have been
6 reduced if the election had been in effect since the date of
7 retirement or, if later, the date the previous reduction in
8 such retired employee or Member's annuity was terminated
9 under subparagraph (A) or (B). If the employee or Member does
10 not make such deposit, the Office shall collect such amount
11 by offset against the employee or Member's annuity, up to a
12 maximum of 25 percent of the net annuity otherwise payable to
13 the employee or Member, and the employee or Member is deemed
14 to consent to such offset. Notwithstanding any other
15 provision of this subparagraph, an election under this
16 subparagraph may not be made for the purpose of providing an
17 annuity in the case of a spouse by remarriage if such spouse
18 was married to the employee or Member concerned at the time
19 of such employee or Member's retirement, and all rights to
20 survivor benefits for such spouse under this subchapter were
21 then waived under paragraph (1) of this subsection or a
22 similar prior provision of law.'';

23 (B) in subsection (k)(1) by striking out
24 "unmarried" in the first sentence thereof; and

25 (C) in subsection (k)(2)--

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1 (i) by changing ``1 year`` to ``2 years`` the
2 first place it appears; and

3 (ii) by striking out the second and third
4 sentences thereof and inserting in lieu thereof
5 the following: ``The election and reduction shall
6 take effect the first day of the first month
7 beginning 9 months after the date of marriage and
8 shall prospectively void any election previously
9 made under paragraph (i) of this subsection.
10 Within 2 years after the date of marriage, the
11 retired employee or Member (except an employee or
12 Member who made a previous election under
13 paragraph (i) of this subsection) must deposit in
14 the Fund an amount determined by the Office of
15 Personnel Management, as nearly as may be
16 administratively feasible, to reflect the amount
17 by which the retired employee or Member's annuity
18 would have been reduced under subsection (j)(4)
19 of this section since the commencing date of the
20 annuity, if the employee or Member had been
21 married at the time of retirement and had elected
22 to provide a survivor annuity at that time. If
23 the employee or Member does not make such
24 deposit, the Office shall collect such amount by
25 offset against the employee or Member's annuity,

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1 up to a maximum of 25 percent of the net annuity
2 otherwise payable to the employee or Member, and
3 the employee or Member is deemed to consent to
4 such offset.'';

5 (3) in section 8341--

6 (A) in subsection (a)--

7 (i) in paragraphs (1)(A) and (2)(A) by
8 striking out ``1 year'' and inserting in lieu
9 thereof ``9 months''; and

10 (ii) by inserting after paragraph (4) the
11 following new paragraph:

12 `` (5) 'former spouse' means the former spouse of an
13 employee or Member who performed at least 18 months of
14 civilian service covered under this subchapter, if the
15 former spouse was married to the employee or Member for
16 at least 9 months;'';

17 (B) in subsection (b)--

18 (i) by amending paragraph (1) to read as
19 follows:

20 `` (b)(1) Except as provided in paragraph (2) of this
21 subsection, if an employee or Member dies after having
22 retired under this subchapter and is survived by a widow or
23 widower, the widow or widower is entitled to an annuity equal
24 to 55 percent (or 50 percent if retired before October 11,
25 1962) of an annuity computed under section 8339(a)-(i) and

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1 (n) of this title as may apply with respect to the annuitant,
2 or of such portion thereof as may have been designated for
3 this purpose under section 8339(j)(1) of this title, unless
4 the right to a survivor annuity was waived as provided under
5 section 8339(j)(1) of this title, or in the case of
6 remarriage, the employee or Member did not file an election
7 under section 8339(j)(5)(C) of this title.'';

8 (ii) in the second and third sentences of
9 paragraph (3) by striking out ``spouse, widow,``
10 both times it appears and inserting in lieu
11 thereof ``widow``;

12 (iii) by striking out ``60 years of age`` at
13 the end of paragraph (3) and inserting in lieu
14 thereof ``55 years of age``; and

15 (iv) by adding at the end thereof the
16 following new paragraph:

17 `` (4) Notwithstanding the preceding paragraphs of this
18 subsection, the annuity payable under this subsection to the
19 widow or widower of a retired employee or Member shall be
20 reduced by the amount of any annuity that is payable to a
21 former spouse of the employee or Member under subsection (h)
22 of this section.'';

23 (C) in subsection (d)--

24 (i) by inserting after the first sentence the
25 following:

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1 "Notwithstanding the preceding sentence, the annuity payable
2 under this subsection to the widow or widower of an employee
3 or Member shall be reduced by the amount of any annuity that
4 is payable to a former spouse of the employee or Member under
5 subsection (h) of this section."; and

6 (ii) by striking out "67 years of age" at
7 the end thereof and inserting in lieu thereof
8 "55 years of age";

9 (D) in subsection (e)--

10 (i) in paragraph (1) by inserting the
11 following after "survived by a spouse" both
12 times it appears: "or a former spouse who is the
13 natural or adoptive parent of a surviving child
14 of the employee or Member"; and

15 (ii) in the last sentence of paragraph (2) by
16 inserting the following after "surviving
17 spouse" and "spouse": "or former spouse";

18 (E) in subsection (f) by inserting after
19 paragraph (2) the following:

20 "Notwithstanding the preceding sentence, an annuity payable
21 under this subsection to the surviving spouse of a Member
22 shall be reduced by the amount of any annuity that is payable
23 to any former spouse of the Member under subsection (h) of
24 this section."; and

25 (F) in subsection (g) by striking out "67 years

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1 of age'' and inserting in lieu thereof ''55 years of
2 age''; and

3 (G) by adding at the end thereof the following
4 new subsections:

5 ''(h)(1) A former spouse of a deceased employee, Member,
6 or annuitant is entitled to a survivor annuity in accordance
7 with subsection (b), (d), or (f) of this section, in the same
8 manner as the widow or widower of an employee, Member, or
9 annuitant, but only if and to the extent expressly provided
10 for in an election under section 8339(j)(3) of this title, or
11 in the terms of any decree of divorce or annulment or any
12 court order or court-approved property settlement agreement
13 incident to such decree. Neither any decree, order, or
14 agreement under this subsection nor any election under
15 section 8339(j)(3) of this title shall be effective to the
16 extent that it is inconsistent with any joint designation or
17 waiver of survivor annuity executed by such former spouse
18 under section 8339(j)(1) of this title. Any such decree,
19 order, agreement, or election shall not be subject to
20 modification after the retirement of the employee or Member
21 to the extent that such modification involves an annuity
22 under this subsection. The annuity payable to a former spouse
23 under this subsection--

24 ''(A) shall not exceed the amount specified under
25 subsection (b), (d), or (f) of this section, as the case

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1 may be (and as determined without taking into
2 consideration the amount of any annuity payable under
3 this subsection); and

4 "(B) shall be reduced by the amount of any annuity
5 that is payable under this subsection to any other former
6 spouse of the employee, Member, or annuitant, based on
7 any court order previously issued, or an election
8 previously made under section 8339(j)(3) of this title.

9 Any payment under this paragraph to a person bars recovery by
10 any other person.

11 "(2) Payments authorized by paragraph (1) shall begin no
12 sooner than the first day of the second month after the date
13 of receipt in the Office of written notice of such decree,
14 order, or agreement, and such additional information and
15 documentation as the Office may prescribe.

16 "(3) As used in this subsection, 'court' means any court
17 of any State, the District of Columbia, Puerto Rico, Guam,
18 the Northern Mariana Islands, the Virgin Islands, or any
19 Indian tribe in the United States.

20 "(1) The requirement in subsections (a)(1)(A) and
21 (a)(2)(A) of this section that the surviving spouse of an
22 employee or Member have been married to such employee or
23 Member for at least 9 months immediately before the
24 employee's or Member's death in order to qualify as the
25 employee's or Member's widow or widower shall be deemed

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1 satisfied where the employee or Member dies within the
2 applicable 9-month period, if--

3 “(1) the death of the employee or Member is
4 accidental; or

5 “(2) the surviving spouse of such individual had
6 been previously married to the individual and
7 subsequently divorced and the aggregate time married is
8 at least 9 months.”;

9 (4) in section 8342(a)--

10 (A) by striking out “An” and inserting in lieu
11 thereof “Subject to subsection (j) of this section,
12 an”; and

13 (B) by adding at the end thereof the following
14 new subsection:

15 “(j)(1) Payment of the lump-sum credit under subsection
16 (a) of this section--

17 “(A) may be made only if any current spouse and any
18 former spouse of the employee or Member are notified of
19 the employee or Member’s application; and

20 “(B) in any case in which there is a former spouse,
21 shall be subject to the terms of a court order or decree
22 if--

23 “(i) the order or decree expressly relates to
24 any portion of the lump-sum credit involved, and

25 “(ii) payment of the lump-sum credit would

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1 extinguish entitlement of the former spouse to a
2 survivor annuity under section 8341(h) of this title.

3 “(2)(A) Notification of a spouse or former spouse under
4 this subsection shall be made in accordance with such
5 requirements as the Office shall by regulation prescribe.

6 “(B) Under the regulations, the Office may provide that
7 paragraph (1)(A) of this subsection may be waived with
8 respect to a spouse or former spouse if the employee or
9 Member establishes to the satisfaction of the Office that the
10 whereabouts of such spouse or former spouse cannot be
11 determined.

12 “(3) The office shall prescribe regulations under which
13 this subsection shall be applied in any case in which the
14 Office receives two or more such orders or decrees.”;

15 (5) in section 8345--

16 (A) in subsection (f) by adding at the end
17 thereof the following new paragraph:

18 “(4) The provisions of this subsection shall not apply--

19 “(A) to any survivor annuity payable under
20 subsection (h) of section 8341 of this title; or

21 “(B) to any survivor annuity payable under
22 subsection (b), (d), or (f) of such section which is
23 reduced on account of any survivor annuity referred to in
24 subparagraph (A) of this paragraph.”; and

25 (B) in subsection (j)(3) by striking out “or the

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1 District of Columbia'' and inserting in lieu thereof
2 the following: '', the District of Columbia, Puerto
3 Rico, Guam, the Northern Mariana Islands, the Virgin
4 Islands, or any Indian tribe in the United States'';
5 and

6 (6) in section 8348(a)(1)(B) by striking out ''this
7 title'' and inserting in lieu thereof ''this title, in
8 administering survivor annuities and elections providing
9 therefor under sections 8339 and 8341 of this title,''.
10

11 Sec. 3. Chapter 89 of title 5, United States Code, is
12 amended--

13 (1) in section 8901--

14 (A) by striking out ''and'' at the end of
15 paragraph (8);

16 (B) by striking out the period at the end of
17 paragraph (9) and inserting in lieu thereof '';
18 and''; and

19 (C) by adding at the end thereof the following
20 new paragraph:

21 ''(10) 'former spouse' means an unremarried former
22 spouse of an employee or annuitant--

23 ''(A) who was enrolled in an approved health
24 benefits plan under this chapter as a family member
25 at any time during the 18-month period before the
date of the dissolution of the marriage to the

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1 employee or annuitant, and

2 “(B)(i) who is receiving a portion of an annuity
3 under section 8345(j) of this title or a survivor
4 annuity under section 8341(h) of this title or
5 similar provision of law applicable to another
6 retirement system for employees of the Government, or

7 “(ii) as to whom a court order or decree
8 referred to in section 8341(h) or 8345(j) of this
9 title (or similar provision of law applicable to
10 another retirement system for employees of the
11 Government) has been issued, or for whom an election
12 has been made under section 8339(j)(3) of this title
13 (or similar provision of law so applicable).”;
14 (2) in section 8902--

15 (A) in subsection (g) by striking out “employee
16 or annuitant” both times it appears and inserting in
17 lieu thereof “employee, annuitant, family member, or
18 former spouse”; and

19 (B) in subsections (j) and (k) by striking out
20 “or family member” and inserting in lieu thereof
21 “family member, or former spouse”;
22 (3) in section 8903(1)--

23 (A) by striking out “employees or annuitants, or
24 members of their families” and inserting in lieu
25 thereof “employees, annuitants, members of their

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1 families, or former spouses''; and

2 (B) by striking out ``employee or annuitant or
3 member of his family'' and inserting in lieu thereof
4 ``employee, annuitant, family member, or former
5 spouse'';

6 (4) in section 8905--

7 (A) by redesignating subsections (c), (d), and
8 (e) as subsections (d), (e), and (f), respectively,
9 and inserting after subsection (b) the following new
10 subsection:

11 `` (c)(1) A former spouse of an employee or annuitant may,
12 within 60 days after the dissolution of the marriage to such
13 employee or annuitant, enroll in an approved health benefits
14 plan described by section 8903 of this title as an individual
15 or for self and family as provided in paragraph (2) of this
16 subsection, subject to agreement to pay the full subscription
17 charge of the enrollment, including the amounts determined by
18 the office to be necessary for administration and reserves
19 pursuant to section 8909(b) of this title. The former spouse
20 shall submit an enrollment application and make premium
21 payments to the agency which, at the time of divorce or
22 annulment, employed the employee to whom the former spouse
23 was married or, in the case of a former spouse who is
24 receiving annuity payments under section 8341(h) or 8345(j)
25 of this title, to the Office of Personnel Management.

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1 “(2) Coverage for self and family under this subsection
2 shall be limited to--

3 “(A) the former spouse; and

4 “(B) unmarried dependent natural or adopted children
5 of the former spouse and the employee or Member who are--

6 “(1) under 22 years of age; or

7 “(1i) incapable of self-support because of
8 mental or physical disability which existed before
9 age 22.”; and

10 (B) in subsection (f), as redesignated by
11 subparagraph (A) of this paragraph, by striking out
12 “An employee or annuitant” and inserting in lieu
13 thereof “An employee, annuitant, or former-spouse”;
14 (5) in section 8907--

15 (A) in subsection (a) by striking out
16 “employee” both places it appears and inserting in
17 lieu thereof “individual”; and

18 (B) in subsection (b)--

19 (i) by striking out “employee enrolled” and
20 inserting in lieu thereof “enrollee”;

21 (ii) in paragraph (1) by striking out
22 “employee or the employee and members of his
23 family” and inserting in lieu thereof “enrollee
24 or the enrollee and any eligible family
25 members”; and

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1 (111) in paragraph (3) by striking out "the
2 employee or members of his family" and inserting
3 in lieu thereof "the enrollee and any eligible
4 family members";

5 (6) in section 8909--

6 (A) in subsections (a) and (b) by striking out
7 "employees, annuitants," and inserting in lieu
8 thereof "enrollees"; and

9 (B) in subsection (d) by striking out "Each
10 employee or annuitant" and inserting in lieu thereof
11 "Each employee, annuitant, or former spouse"; and
12 (7) in section 8913(c)--

13 (A) in the first sentence by striking out
14 "employees and annuitants and members of their
15 families" and inserting in lieu thereof "employees,
16 annuitants, members of their families, and former
17 spouses"; and

18 (B) in the second sentence by inserting after
19 "in which an annuitant" the following: "or former
20 spouse".

21 Sec. 4. (a)(1) Except as provided in subsections (b) and
22 (c), the amendments made by section 2 of this Act shall take
23 effect 180 days after the date of enactment of this Act and
24 shall apply to any individual who, on or after such effective
25 date, is married to an employee or Member who, on or after

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1 such effective date, retires, dies, or applies for a refund
2 of contributions under subchapter III of chapter 83 of title
3 5, United States Code.

4 (2) Except as provided in subsection (f), the amendments
5 made by section 3 of this Act shall take effect 180 days
6 after the date of enactment of this Act and shall apply to
7 any individual who, on or after such effective date, is
8 married to an employee, Member, or annuitant.

9 (b) Notwithstanding subsection (a) of this section, a
10 former spouse of an employee or Member who retired before the
11 180th day after the date of enactment of this Act is entitled
12 to a survivor annuity under section 8341(b) of title 5,
13 United States Code, if--

14 (1) the employee or Member elects, in writing, within
15 18 months after the date of enactment of this Act,
16 according to procedures prescribed by the Office, to have
17 the annuity of such employee or Member reduced under
18 section 8339(j)(4) of title 5, United States Code, as
19 amended by this Act, and, except as provided in paragraph
20 (4) of this subsection, to deposit in the Civil Service
21 Retirement and Disability Fund an amount determined by
22 the office, as nearly as may be administratively
23 feasible, to reflect the amount by which such employee or
24 Member's annuity would have been reduced had the
25 reduction been in effect since such employee or Member's

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1 annuity commenced; or

2 (2) where the retired employee or Member dies on or
3 before the 180th day after the date of enactment of this
4 Act or does not make the election described in paragraph
5 (1)--

6 (A) the former spouse's marriage to the employee
7 or Member was dissolved on or after September 15,
8 1978;

9 (B) the former spouse was married to the employee
10 or Member for at least 10 years during periods of
11 creditable service under section 8332 of title 5,
12 United States Code;

13 (C) the former spouse is not entitled to any
14 other retirement or survivor annuity (other than
15 benefits under title II of the Social Security Act or
16 under section 8345(j) of title 5, United States Code)
17 provided by any public or private employer, based on
18 the former spouse's own employment or the service of
19 the employee or Member;

20 (D) the former spouse has not remarried before
21 age 55 after September 15, 1978;

22 (E) the former spouse files an application for
23 the survivor annuity with the Office within 30 months
24 after the date of enactment of this Act; and

25 (F) the former spouse is at least 50 years of age

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1 at the time of filing such application.

2 An annuity under paragraph (2) shall commence on the day
3 after the employee or Member dies or the first day of the
4 second month after the former spouse's application is
5 received by the Office, whichever occurs later.

6 (3) Except as provided in paragraph (4), if an
7 employee or Member who makes an election under paragraph
8 (1) does not make the deposit required by such paragraph,
9 the Office shall collect the amount of the deposit by
10 offset against the employee or Member's annuity, up to a
11 maximum of 25 percent of the net annuity otherwise
12 payable to the employee or Member, and the employee or
13 Member is deemed to consent to such offset.

14 (4) An election under paragraph (1) of this
15 subsection prospectively voids any election previously
16 made under section 8339(k)(1) of title 5, United States
17 Code. Notwithstanding paragraph (1) of this subsection,
18 an individual who made an election under section
19 8339(k)(1) shall not be required to make a deposit
20 authorized by paragraph (1) of this subsection.

21 (5) An annuity provided under this subsection shall
22 be 55 percent of the annuity of the retired employee or
23 Member as determined under section 8339(a)-(1) and (n) of
24 title 5, United States Code, increased by--

25 (A) the total percent increase the retired

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1 employee or Member was receiving under section 8340
2 of such title at death; or

3 (B) in the case of a retired employee or Member
4 whose date of death precedes the 180th day after the
5 date of enactment of this Act, the total percent
6 increase the retired employee or Member would have
7 received under such section 8340 had such individual
8 died on the 180th day after such date of enactment.

9 (c) Notwithstanding subsection (a) of this section, an
10 employee or Member who retired before the 180th day after the
11 date of enactment of this Act and who is married to a spouse
12 acquired after retirement for whom such employee or Member
13 was unable to provide a survivor annuity because--

14 (1) the employee or Member was married at the time of
15 retirement and elected not to provide a survivor annuity
16 for the employee or Member's spouse at the time of
17 retirement, or

18 (2) the employee or Member failed to notify the
19 Office of the employee or Member's post-retirement
20 marriage within 1 year after the marriage,
21 may elect in writing, within 1 year after the date of
22 enactment of this Act, in accordance with procedures
23 prescribed by the Office, to have the employee or Member's
24 annuity reduced under section 8339(j)(4) of title 5, United
25 States Code, as amended by this Act, and to deposit in the

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1 Civil Service Retirement and Disability Fund an amount
2 determined by the Office, as nearly as may be
3 administratively feasible, to reflect the amount by which the
4 employee or Member's annuity would have been reduced had the
5 election been continuously in effect since the employee or
6 Member's annuity commenced. If the employee or Member does
7 not make such deposit, the Office shall collect such amount
8 by offset against the employee or Member's annuity, up to a
9 maximum of 25 percent of the net annuity otherwise payable to
10 the employee or Member, and the employee or Member is deemed
11 to consent to such offset. The Office shall provide for
12 general public notice of the right to make an election under
13 this subsection. In cases to which paragraph (2) of this
14 subsection applies, the employee or Member shall provide the
15 Office with original documentation, or such other
16 documentation as the Office shall decide is appropriate, that
17 the employee or Member attempted to elect a reduced annuity
18 with survivor benefit for such employee or Member's current
19 spouse and that such employee or Member's election was
20 rejected by the Office because it was untimely filed.

21 (d) A deposit required by subsection (b)(1) or (c) or
22 this section may be made by the surviving former spouse or
23 spouse, as applicable, of the retired employee or Member.

24 (e) The Office shall determine at the end of each fiscal
25 year--

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1 (1) the cost of survivor annuities provided under
2 subsections (b) and (c) of this section, less an amount
3 determined appropriate by the Office to reflect the value
4 of any deposits made by employees or Members under
5 subsections (b)(1) and (c), and

6 (2) the cost of administering subsections (b) and
7 (c).

8 The Office shall notify the Secretary of the Treasury of the
9 amounts so determined. The Secretary of the Treasury, before
10 closing the account for the fiscal year in question, shall
11 credit to the Civil Service Retirement and Disability Fund,
12 out of any money in the Treasury not otherwise appropriated,
13 such amounts, which shall be available in the same manner as
14 provided under subparagraphs (A) and (B) of section
15 8348(a)(1) of title 5, United States Code.

16 (f) An individual who is entitled to a survivor annuity
17 under subsection (b) of this section is deemed to be in
18 receipt of annuity payments under section 8341(h) of title 5,
19 United States Code, for the purpose of chapter 89 of such
20 title, as amended by section 3 of this Act. Notwithstanding
21 subsection (a) of this section, such former spouse who
22 otherwise meets the definition of former spouse in section
23 8901(10) of title 5, United States Code, may enroll in an
24 approved health benefits plan described by section 8903 of
25 such title, under the conditions set forth in section 8905(c)

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1 of such title, as so amended.